

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:18 CV 2857
)	
Plaintiff,)	JUDGE SOLOMON OLIVER, JR.
)	
v.)	
)	
\$22,310.00 IN U.S. CURRENCY,)	
)	
)	UNITED STATES' MOTION TO COMPEL
Defendant.)	<u>DISCOVERY DOCUMENT PRODUCTION</u>

Now comes the United States of America - pursuant to Rule 37 of the Federal Rules of Civil Procedure – and respectfully moves the Court to order the claimant to respond to the United States' outstanding discovery request. This motion is supported by the following:

On April 12, 2019, the United States served the following discovery request on Myron P. Watson, the attorney for claimant Michelle K. Moore:

- United States' First Request for Production of Documents to Claimant Michelle K. Moore.

The discovery request was properly served on April 12, 2009, on Myron P. Watson at his law office. In fact, on May 1, 2019, government counsel was contacted by staff at Watson's office requesting a Word version of the special interrogatories, which was mailed with the request for production of documents. Consequently, counsel has acknowledged receipt of the document production discovery request, the time limit for the claimant's responses has expired

and claimant has failed to provide government counsel with Plaintiff's Response to the United States' Request for Production of Documents.

The motion to compel is made under Rule 37 of the Federal Rules of Civil Procedure, which provides:

(a) **Motion for an Order Compelling Disclosure or Discovery.**

(1) **In General.** On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.

...

(3) **Specific Motions.**

...

(B) *To Compel a Discovery Response.* A party seeking discovery may move for an order compelling an answer, designation, production, or inspection. This motion may be made if:

...

(iv) a party fails to produce documents or fails to respond that inspection will be permitted—or fails to permit inspection—as requested under Rule 34.

Rule 37(a)(1) states that a motion for an order compelling discovery must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action. On July 25, 2019, USAO Paralegal Angela M. Lapp sent the following email to Claimant's counsel:

Myron,

On April 12, 2019, Henry mailed a request for Production of Documents to Claimant Michelle Moore in care of your office via certified mail (Receipt No. 7015 1660 0000 1165 0861). The post office recorded the package as delivered at 11:54 A.M. on April 15, 2019. To date, Henry has not received the requested documents. Please respond and forward them.

Thank you,
Angela

To date the government has received no response to the email and no response to the request for production of documents by claimant or claimant's counsel.

Having satisfied the provisions of Rule 37 of the Federal Rules of Civil Procedure, it is respectfully requested that the Court order the claimant to produce the documents requested in United States' First Request for Production of Documents to Claimant Michelle K. Moore.

WHEREFORE, the United States respectfully submits the within United States' Motion to Compel Discovery Document Production.

Respectfully submitted,

Justin E. Herdman
UNITED STATES ATTORNEY

By: /s/ Henry F. DeBaggis
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CERTIFICATE OF SERVICE

It is hereby certified that on this 1st day of August, 2019, a copy of the foregoing United States' Motion to Compel Discovery Document Production was filed electronically. Notice of the filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

/s/ Henry F. DeBaggis
Henry F. DeBaggis (OH: 0007561)
Assistant United States Attorney